THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.27604 of 1998

Dated: 13-12-2005

Between:

The Depot Manager, APSRTC

Picket Bus Depot, Secunderabad.

…..PETITIONER

AND

V.Chandra Sekharan,

S/o Venkata Raghavan, Conductor

APSRTC, H.No.11-42, Shanthinagar,

Patancheru, Medak District & another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.27604 of 1998

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ORDER:

Assailing the award dated 17-4-1998, passed by the Additional Industrial Tribunal – cum- Additional Labour Court, Hyderabad in I.D. No. 65/96, holding that the 1st respondent-workman is entitled for reinstatement with continuity of service, back-wages and all other attendant benefits, the A.P.S.R.T.C., filed the present writ petition.

The brief facts leading to the filing of the writ petition are as follows:

The 1st respondent was a Conductor in the A.P.S.R.T.C. attached to Picket Depot. While he was conducting the bus bearing No. AP 9Z 7867 on the route from Bangalore to Secunderabad in the intervening night of 15-5-1995 and 16-5-1995 at about 2 A.M, the bus met with a fire accident at Dhone. Based on the report of the Accident Enquiry Committee, the 1st respondent was placed under suspension, and thereafter, a detailed enquiry was conducted into the following charges:

1. For having been an accomplice in carrying the liquor bottles in the bonnet of Bus No. AP 9Z 7867 on 16-5-1995 while incoming from Bangalore to Secunderabad and while on duty violating the provisions of A.P. Prohibition Act, 1994, communicated through circulars and which constitutes misconduct in terms of Reg. 28 (xvii) of APSRTC Employees' Conduct Regulations, 1963.

2. You have reported the file accident message to Depot Manager, Dhone Depot only at about 06-15 hrs on 16-5-1995, though the incident took place at about 0200 hrs at a distance of only four kms away from Dhone. Further, you have not recorded statements of the passengers but allowed them to go away with an intention to hush up the truth conniving with the service drivers which tantamounts to misconduct as per Reg. 28 (xxx) of APSRTC Employees' Conduct Regulation. 1963.

3. For having not reported to police officials for enquiry inspite of acknowledging the instructions of Senior Traffic Inspector, Dhone Depot on 17-5-1995 or submitted any information to the Depot Officials till 19-6-1995 which tantamounts to absconding from duties and constituted misconduct in terms of Reg. 28 (xxvii) of APSRTC Employees' Conduct Regulations, 1963.

4. For having caused inconvenience to the passengers who traveled in the bus NO.AP 9 Z 7867 on 16-5-1995 while incoming from Bangalore to Secunderabad, owing to the above mentioned filed accident arising out of your misconduct and denigrate the image of Corporation, which tantamounts to serious misconduct in terms of Regulation. 28 (xxxi) of APSRTC Employees' Conduct Regulations, 1963.

The above charges having been stood proved, the 1st respondent was removed from service by order dated 23-1-1996 of the Depot Manager. Against the said order of removal, the 1st respondent-workman preferred an appeal to the Deputy Chief Traffic Manager, who by order dated 27-3-1996 rejected the same. Aggrieved thereby, the 1st respondent-workman raised an industrial dispute in I.D. No. 65/1995 under Section 2-A (2) of the Industrial Disputes Act, 1947 before the Industrial Tribunal. Before the Industrial Tribunal, the parties did not adduce any oral evidence, but the 1st respondent marked Exs. M-1 to M-15, in support his case.

The Industrial Tribunal upon considering the rival contentions, allowed the I.D. and ordered reinstatement of the 1st respondent with continuity of service, back-wages and all other attendant benefits. Hence, the present writ petition is filed by the A.P.S.R.T.C.

Learned Standing Counsel for the petitioner-A.P.S.R.T.C. submitted that without the connivance of the 1st respondent, the whisky bottles could not have been kept in the bonnet, and by reason of storing of whisky bottles in the bonnet of the bus, the fire accident took place, and the 1st respondent being an accomplice and one of the person responsible for the accident, the Industrial Tribunal committed an error in

interfering with the punishment of removal imposed by the disciplinary authority and as confirmed by the appellate authority. He thus prayed that the award of the Industrial Tribunal ordering reinstatement of the 1st respondent with continuity of service, backwages and all other attendant benefits, be set aside and the writ petition be allowed.

On the other hand, learned counsel for the 1st respondent contended that the Industrial Tribunal upon proper appreciation of the evidence and material on record, had rightly set aside the order of removal, passed against the 1st respondent by the disciplinary authority and confirmed by the appellate authority, and no interference is called for therewith. He thus prayed that the order impugned be sustained and the writ petition be allowed.

Heard learned Standing Counsel for the petitioner-A.P.S.R.T.C. and learned counsel for the 1st respondent, and perused the material on record.

The learned Standing Counsel for the petitioner-A.P.S.R.T.C. mainly focused on Charge No.1 levelled against the 1st respondent, which in the enquiry stood proved, to contend that the 1st respondent being an accomplice and one of the persons responsible for the fire accident, could not have been ordered to be reinstated into service, more so with continuity of service, backwages and all other attendant benefits. Given the contention advanced by the petitioner, it may be noticed whether the Industrial Tribunal was justified in setting aside the order of removal and passing the impugned order. A perusal of the award and the findings recorded by the Industrial Tribunal with reference to evidenced on Charge No.1, would disclose that there was no independent evidence placed by the petitioner to prove that the 1st respondent as a Conductor, had the knowledge of keeping of the liquor bottles in the bonnet of the bus, and this apart, no evidence whatsoever was placed by the A.P.S.R.T.C. to show that the 1st respondent had connived with the driver for transporting the liquor bottles in the bonnet illegally, and by reason of which illegal transportation, the bus caught fire. There being no substantial and independent evidence to prove that the 1st respondent was aware of the keeping of the liquor bottles in the bonnet of the bus, merely on the basis of presumptions and surmises, it cannot be said that the 1st respondent was one of the person's responsible for the fire accident. The scope of judicial review of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India is to correct errors of jurisdiction, correct the errors of law apparent on the face of record, correct the findings recorded based on suspicion, conjectures and surmises. It is not a case where the Industrial Tribunal has exceeded its jurisdiction or has committed error of law, but on the other hand, it is a case where the enquiry officer proceeded on the basis of conjectures and surmises and came to the wrong conclusion that the charges leveled against the 1st respondent stood proved. The Industrial Tribunal having considered all the four charges elaborately with reference to the evidence adduced and material placed on record, and in the absence of any independent evidence placed by the petitioner to prove that the 1st respondent was responsible

for the accident, had set aside the order of removal passed against the 1st respondent by the disciplinary authority as confirmed by the appellate authority, and ordered his reinstatement with continuity of service, backwages and all other attendant benefits, and no exception can be taken thereto.

For the foregoing reasons, I find no mere in the writ petition, and the same is accordingly dismissed. No costs.

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(N.V. RAMANA, J.)

Date: 13th December, 2005.

GRK